

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

JASON K. STRATTON,

Plaintiff,

v.

**ARCH COAL, INC., a foreign corporation,
MINGO LOGAN COAL COMPANY, a
foreign corporation, and ARCH COAL
GROUP, LLC., a foreign corporation,**

Defendants.

**Civil Action No. 5:16CV12204
Judge Irene C. Berger**

**Removed From Circuit Court of
Raleigh County, No. 16-C-724**

DEFENDANTS' MOTION TO DISMISS AND MOTION TO STRIKE

Defendants Arch Coal, Inc., Mingo Logan Coal Company, and Arch Coal Group, LLC (collectively, "Defendants"), by counsel, hereby move to dismiss Counts I - IV pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted. Additionally, or alternatively, Defendants, by counsel, hereby move to strike either Count I or Count III of the Complaint pursuant to Rule 12(f) because they are redundant. As is more fully explained in the accompanying Memorandum of Law, Plaintiff cites to no West Virginia substantial public policy in support of his claims in Counts I and III that his discharge was wrongful or retaliatory. Plaintiff also failed to set forth facts and legal bases that would allow him to recover for Count II, which alleges civil conspiracy and fraud, and he failed to name a statute that Defendants allegedly violated in Count IV, which generally alleges a violation of statute. Therefore, Counts I, II, III, and IV of Plaintiff's Complaint fail as a matter of law and should be dismissed.

Respectfully submitted this 22nd day of December 2016.

/s/ C. David Morrison

C. David Morrison (WV Bar #2643)

Shawn A. Morgan (WV Bar #6640)

Kaitlin L. H. Robidoux (WV Bar #12342)

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Counsel for Defendants

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CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of December, 2016, I electronically filed the
“**Defendants’ Motion to Dismiss and Motion to Strike**” with the Clerk of the Court using the
CM/ECF system which will send a notice of electronic filing to the following counsel of record:

Stephen P. New
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Counsel for Plaintiff

/s/ C. David Morrison
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